



OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



DATE: March 27, 2024

INFORMATIONAL REPORT

NUMBER: 09803-0001-51

TO: **Terrence McGhee**
Acting Chief Risk Officer
Office of the Chief Risk Officer

ATTN: **Tracy Anderson**
Audit Liaison Officer

FROM: **Steve Rickrode**
Acting Assistant Inspector General for Audit

SUBJECT: Infrastructure Investment and Jobs Act (IIJA) Reconnect Program – Rural Utilities Service (RUS) Consideration and Balance of Broadband Needs

The Office of Inspector General contracted with Regis and Associates, an independent certified public accounting firm, to conduct an informational report on the IIJA Reconnect Program – RUS consideration and balance of broadband needs within statutory and program requirements as of September 30, 2023. This informational report was prepared using information obtained from RUS' officials and from public sources. This informational report does not contain any findings or recommendations.

In connection with the contract, we reviewed Regis and Associates' informational report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with Government Auditing Standards or from an inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspection and Evaluation, was not intended to enable us to express, and we do not express opinions. Regis and Associates is responsible for the attached informational report, dated March 21, 2024. However, our review disclosed no instances where Regis and Associates did not comply, in all material respects, with Government Auditing Standards, and the Quality Standards for Inspection and Evaluation.

We appreciate the courtesies and cooperation extended to us by members of your staff during this engagement and subsequent discussions. This informational report contains publicly available information and will be posted on our website (<https://usdaioig.oversight.gov/>) in the near future.

INFRASTRUCTURE INVESTMENT AND JOBS ACT



IIJA Reconnect Program - RUS Consideration and Balance of Broadband Needs – Informational Report

09803-0001-51 – March 2024

The United States Department of Agriculture (USDA) Rural Utilities Service (RUS) administers the Rural eConnectivity Pilot Program (ReConnect Program) that was authorized by the Consolidated Appropriations Act of 2018.¹ The ReConnect Program provides funding in the form of loans, grants, and loan/grant combinations; for the cost of construction, improvement, or acquisition of facilities and equipment needed to facilitate broadband² deployment in rural areas. An important goal of the ReConnect Program is to expand broadband service to rural areas that do not have sufficient access³ to broadband.⁴

The Congressional Research Service, reported in 2023, that the deployment of broadband is not uniform across the United States, with some areas lacking broadband entirely. While progress has been made, the digital divide⁵ persists, despite the federal government providing support for broadband deployment for decades.⁶ Sufficient access to broadband for all Americans is the ultimate goal of the government, as broadband has become an increasingly important aspect of everyday life. This became especially apparent during the Coronavirus Disease 2019 (COVID-19) pandemic.

The Infrastructure Investment and Jobs Act (IIJA)⁷ was signed into law on November 15, 2021; to provide funds for Federal-aid highways, highway safety programs and transit programs, and for other purposes that included broadband infrastructure. IIJA provided funding to the USDA's RUS to invest in broadband infrastructures, through the ReConnect Program.

This informational report provides general program information and analysis of RUS' consideration and balance of broadband needs within IIJA's statutory and ReConnect Program requirements.

¹ Consolidated Appropriations Act, Pub. L. No. 115-141, 779,132 Stat. 348, 398 (March 23, 2018)

² The term “broadband” refers to high-speed internet access.

³ Sufficient access to broadband (7 CFR 1740.2) means any rural area in which households have fixed, terrestrial broadband service, defined as 100 megabits per second (Mbps) downstream and 20 Mbps upstream.

⁴ 7 C.F.R. §1740.1(a).

⁵ The term “digital divide” refers to the gap between those who have access to broadband and those who do not.

⁶ Congressional Research Service (CRS), *The Persistent Digital Divide: Selected Broadband Deployment Issues and Policy Considerations*, R47506 (April 18, 2023), available at <https://sgp.fas.org/crs/misc/R47506.pdf>.

⁷ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (November 15, 2021)

Statutory Requirements of the IIJA Funded ReConnect Program

The Infrastructure Investment and Jobs Act (IIJA) provided \$1,926,000,000 in direct appropriations to the ReConnect Program. The IIJA required that:

- (1) at least 50 percent of the households to be served by a project receiving funds, shall be in a rural area⁸ without sufficient access to broadband⁹;
- (2) 10 percent of funds be set aside for service areas where at least 90 percent of the households are in a rural area without sufficient access to broadband;
- (3) to the extent possible, projects receiving funds must build out service to at least 100 megabits per second (Mbps) downloads, and 20 Mbps uploads (100/20 Mbps);
- (4) up to \$50 million may be used for communities determined to be “Areas Rural in Character”¹⁰, pursuant to section 343(a)(13)(D) of the Consolidated Farm and Rural Development Act¹¹;
- (5) matching funds requirement was waived for projects for Alaska Native Corporations for federally-recognized Tribes, in substantially underserved Trust areas, for residents of a rural area recognized as a colonia as of October 1, 1989, and for projects in which 75 percent of the service area is a persistent poverty county or counties¹²;
- (6) the Secretary of USDA collaborate, to the extent practicable, with the Federal Communications Commission (FCC) and National Telecommunication and Information Administration (NTIA);
- (7) applications are subject to the notice, reporting, and service area assessment requirements set forth in section 701 of the Rural Electrification Act¹³.

RUS Consideration of Proposed Projects

All applications are subject to the submission and evaluation requirements contained in 7 C.F.R. part 1740, subpart E; in addition to requirements included in the notice published in the Federal Register for that specific round of funding. RUS awarded funds appropriated under IIJA, via Rounds 3¹⁴ ¹⁵, and

⁸ “Rural area” means any area that is not located within: (i) (A) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or (B) An urbanized area, contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants, as defined in the Agency mapping tool. (ii) In determining a rural area, all areas shall exclude certain populations, pursuant to [7 U.S.C. 1991\(a\)\(13\)\(H\)](#) and [\(I\)](#).

⁹ IIJA defines sufficient access to broadband as having speeds of not less than 25 megabits per second (Mbps) downloads and 3 Mbps uploads (25/3 Mbps).

¹⁰ “Area rural in character” means (i) all the territory of a state that is not within the boundary of any standard metropolitan statistical area; and (ii) all territory within any standard metropolitan statistical area within a census tract, having a population density of less than 20 persons per square mile, as determined by the Secretary, according to the most recent census of the United States as of any date.

¹¹ Consolidated Farm and Rural Development Act, Pub. L. No. 87-128 (August 8, 1961), as amended (7 U.S.C. 1991).

¹² The term “persistent poverty counties” means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and 2007–2011 American Community Survey 5–6 year average, or any territory or possession of the United States.

¹³ Rural Electrification Act, Pub. L. 74-605 (May 20, 1936), as amended (7 U.S.C. 901 et seq.).

¹⁴ Rural Utilities Service, USDA. Funding Opportunity Announcement, 86 FR 58860, October 25, 2021.

¹⁵ The Round 3 FOA was published in the Federal Register on October 25, 2021, prior to when IIJA was signed into law on November 15, 2021. Round 3 was drafted to use annual appropriations funds, but the FOA afforded USDA the authority to apply additional funds. RUS chose to use the IIJA funds when administering Round 3, for applications that met the IIJA-specific requirements. A total of \$1,686,519,098 was obligated while administering Round 3 of the ReConnect Program. Of that total, \$547,776,394 was financed using IIJA funds.

Round 4¹⁶ ReConnect Program Funding Opportunity Announcements (FOA),¹⁷ announced in the Federal Register. All applications must be submitted through the RUS Online Application Intake System¹⁸. The system performs a number of validation of applications, to assess their completeness and consistency. Submitted applications that successfully pass the eligibility review, are further reviewed for technical, environmental, and financial suitability. The technical review component verifies that the applicant is proposing a project that is feasible from a cost, timeline, and technological perspective. The environmental review assesses whether the project falls within one or more of the categorical exclusions¹⁹, and whether all necessary documentation supporting the categorical exclusion is included. The financial review is conducted to determine the financial and business risks presented by the applicant and validate the assumptions²⁰ set forth by the applicant. The application then undergoes service area validation, to confirm that the Proposed Funded Service Area (PFSA)²¹ lacks broadband service, per the program requirements, and is an eligible PFSA.

RUS evaluates applications that have a grant component, based on the scoring criteria outlined in the notice. Applications submitted for 100 percent grants, are ranked and awarded based only on the applications included in that category²². Similarly, applications submitted for combination loan/grant awards are ranked and awarded, based only on the applications included in that category. RUS selects grant and combination loan/grant applications, based on those rankings, subject to the availability of funds. One hundred percent loan applications are processed and awarded on a first-come, first-serve basis after the application window closes. In the event that two loan applications are received for the same PFSA, the application submitted first is considered first.

To address any potential duplication of federal awards in the same PFSA, by other federal programs²³, RUS added language to Round 4 FOA, that notified applicants that RUS can consider adjusting the service area or award amount of a project selected for ReConnect Program funding, if in the course of evaluating an application, RUS learns that the service area or a portion of it is already sufficiently served or has received final approval for Federal funding to construct facilities that will provide sufficient access to broadband, as defined under the FOA.²⁴ Therefore, in Round 4, RUS, in its sole discretion, may have requested that an applicant modify its application to eliminate an overlap with other federal awards. However, RUS does not require applications with *de minimis*²⁵ or consequential²⁶

¹⁶ Rural Utilities Service, USDA, Funding Opportunity Announcement, 87 FR 47690, August 4, 2022.

¹⁷ An FOA is a publicly available document by which a federal agency makes known, its intentions to award discretionary awards, usually as a result of competition for funds. FOAs may be known as program announcements; notices of funding availability; solicitations; or other names, depending on the agency and type of program. Each FOA is required to outline the program goals and objectives.

¹⁸ RUS' on-line application portal is located at <https://www.usda.gov/reconnect>.

¹⁹ Under 7 CFR Section 1970.54, the applicant is required to submit an Environmental Report (ER) with their application, if the applicant's proposed actions are classified as, "Categorical Exclusions Involving Small-scale Development." The ER provides project-specific information, including an evaluation of the proposal's potential to impact specific environmental resources and historical properties; so that the Agency can either complete the required environmental review process or determine whether additional impact analyses may be needed.

²⁰ RUS evaluates and validates the assumptions behind revenue and expense projections, capital contributions, debt service schedules, and other aspects of the proposal.

²¹ Proposed Funded Service Area (PFSA) means the area (whether all or part of an existing or new service area) where the applicant is requesting funds to provide broadband services.

²² There are three, 100 percent grant funding categories. See the Balance of Broadband needs section of this report for details.

²³ Other federal programs include the FCC's Rural Digital Opportunity Fund - Ready to Authorize (RDOF-RTA); the FCC's Connect American Fund Phase II (CAF II); the NTIA's Broadband Initiatives Program (BIP); and the NTIA's Tribal Broadband Connectivity Program (TBCP).

²⁴ Section C.2.iii. of the ReConnect Program Round 4 FOA.

²⁵ "De minimis overlap" means less than one percent of the households in the application overlap with another federal award.

²⁶ "Consequential overlap" refers to areas with a shared or overlapping border, where infrastructure to serve the eligible area is a necessity for the project, but which could, as a consequence, also be used to provide service in the overlap. Such overlap cannot be eliminated from the award, without adversely affecting service where it is needed.

overlaps to be adjusted. RUS considers projects to be complementary when the projects are intended to work together to provide the most robust highspeed service possible, often submitted by the same entity or when one project is intended to deliver last mile²⁷ service to the end-user while the other project is intended to construct middle mile²⁸ service.

Balance of Broadband Needs

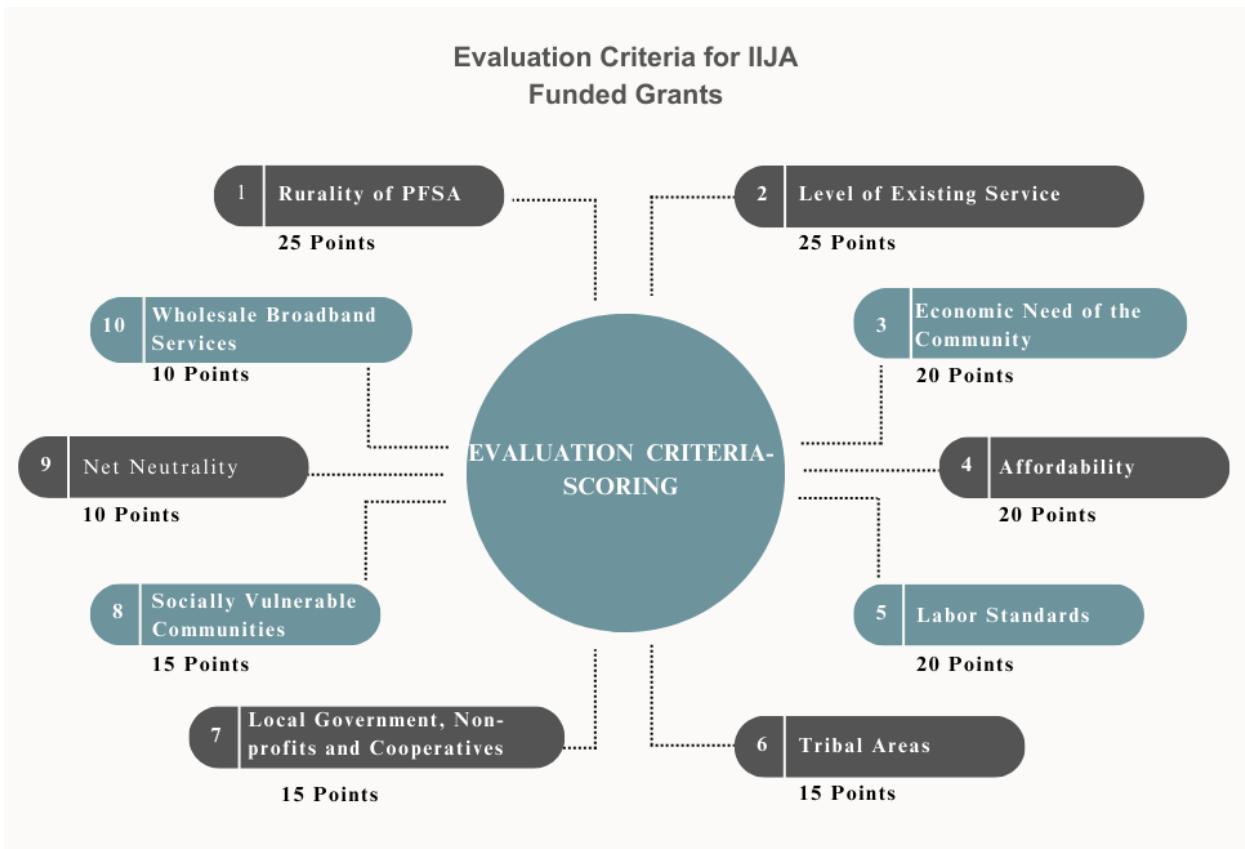
According to RUS, the balance of broadband need is addressed by using separate funding categories directed at distinct groups, such as federally-recognized Tribes and persistent poverty counties. There are five funding categories. These are:

- 100 percent grant. Applicants must provide a matching contribution equal to at least 25 percent of the cost of the overall project;
- 100 percent grant for projects serving areas where 90 percent of households lack sufficient access to broadband. There are no matching funds requirements;
- 100 percent grant for Alaska Native Corporations, Tribal Governments, Colonias, Persistent Poverty Areas, and Socially Vulnerable Communities. No matching funds are required;
- 100 percent loan; and
- 50 percent loan /50 percent grant combination.

The 100 percent grant, without a match category, as established by Congress, was intended to assist communities with the most need; whereas the 100 percent loan category was intended to support borrowers with a strong financial backing, without a need for grants. RUS' priorities were met by scoring each category, separately, so that a Tribal applicant would not be in competition with a for-profit infrastructure provider that is well capitalized. The top-scoring eligible projects in each of the five funding categories were funded until all IIJA funds were exhausted. The evaluation criteria for scoring applications associated with the ReConnect Program FOA for funding Rounds 3 and 4, are summarized in Graphic 1 below:

²⁷ The “last mile” refers to the last leg of the network, which is closest to the subscriber. It is responsible for delivering the service to the premise and subscriber, and includes all “Access” network elements. These “Access” network elements are technology dependent; and include elements like fiber or cable equipment and cabling, wireless equipment from the tower to the premise, etc., that are required to provide service to a subscriber’s premise.

²⁸ The “middle mile” refers to the segment of the network that connects the local or regional networks (last mile) to the broader internet network. It serves as an intermediary link between the local access networks, which serve end-users, and the core network infrastructure that interconnects various regions and internet service providers (ISPs).



Graphic 1: IIJA-Funded ReConnect Program Project Evaluation Scoring Criteria, Per Rounds 3 and 4 FOA²⁹

Distribution of IIJA ReConnect Program Funds

The IIJA provided \$1.926 billion³⁰ in funding for the ReConnect Program, of which \$547.77 million was awarded to Round 3 FOA applicants and the remaining funds were awarded to the Round 4 FOA applicants. Round 1 and Round 2 FOAs, were announced prior to the enactment of IIJA and thus no IIJA funds were awarded in those rounds. RUS received a total of 563 applications for Rounds 3 and 4 FOA, under the 5 funding categories that were funded by annual appropriations and IIJA funds. (See Graphic 2 below). Of the 563 applications; RUS approved 195 applications, rejected 125, determined 236 applications to be eligible but not approved³¹, and had 7 applicants withdraw their applications.

²⁹ The Round 3 and Round 4 FOAs awarded 10 points to applicants that committed to net neutrality by submitting a board resolution or its equivalent, committing that the applicant network shall not (a) block lawful content, applications, services, or non-harmful devices, subject to reasonable network management; (b) impair or degrade lawful Internet traffic on the basis of Internet content, application, or service, or use of a non-harmful device, subject to reasonable network management; and (c) engage in paid prioritization, meaning the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (1) in exchange for consideration (monetary or otherwise) from a third party, or (2) to benefit an affiliated entity.

³⁰ This amount solely reflects the budget authority under IIJA and does not include the subsidy cost associated with loans obligated. See footnote number 32 for more details on subsidy costs.

³¹ According to RUS officials, “Eligible But Not Approved” applications are applications that were not awarded, due to insufficient ReConnect Program funds for the round in which the applications were submitted.

Status of Applications Submitted by Funding Category

Funding Category	Approved	Eligible But Not Approved	Rejected	Withdrawn	Total Applications
100% Loan	24	0	16	1	41
50% Loan/50% Grant	42	7	40	3	92
100% Grant	54	105	33	3	195
100% Grant -Tribal Gov, SVC, etc.	59	90	29	0	178
100% Grant - Insufficient Household	16	34	7	0	57
Total Applications	195	236	125	7	563

Graphic 2: Number of ReConnect Program Applications Submitted, by Funding Category

The approved 195 Round 3 and Round 4 applications, consisted of 74 that were funded by annual appropriations, and 121 that were funded by IIJA. RUS obligated IIJA funding for 121 projects in 32 States, 2 U.S. territories, and the Marshall Islands that totaled \$2.2 billion³², during the period between September 2, 2022 and August 22, 2023³³. This consisted of \$1.4 billion in grants awarded for 76 projects, \$345.7 million in loans awarded for 14 projects, and \$485.5 million in 50 percent loan /50 percent grant combination awarded for 31 projects.

³² RUS obligated an amount higher than was allocated in the budget authority because of the subsidy cost associated with loans obligated. The subsidy cost is the estimated present value of the cash flows from the Government (excluding administrative expenses) less the estimated present value of the cash flows to the Government resulting from a direct loan, discounted to the time when the loan is disbursed. In Fiscal Year (FY) 2023, the ReConnect subsidy rates were 10.10 percent (grant assisted loans 50/50) and 13.64 percent (direct loans).

³³ RUS has continued to make Round 4 additional obligations from IIJA and annual appropriation funds, as recent as January 2024.

The table below presents the IIJA funds obligated by funding category in Round 3 and Round 4 through August 22, 2023.

Funding Category	Round 3	Round 4	Grand Total
100 percent loan	\$ 36,492,568	\$ 309,209,995	\$ 345,702,563
50 percent loan /50 percent grant combination	83,587,894	401,927,145	485,515,039
100 percent grant	269,729,877	164,862,485	434,592,362
100 percent grant for Alaska Native Corporations, Tribal Governments, Colonias, Persistent Poverty Areas, and Socially Vulnerable Communities	157,966,055	582,539,000	740,505,055
100 percent grant for projects serving areas where 90 percent of households lack sufficient access to broadband	-	275,592,492	275,592,492
Grand Total	\$ 547,776,394	\$ 1,734,131,117	\$ 2,281,907,511

Table 1: IIJA Funds Obligated for the ReConnect Program Projects by funding category in Round 3 and Round 4.

One notable difference between Round 3 and 4 was that in Round 3, the 100 percent grant category for projects serving areas where 90 percent of households lack sufficient access to broadband, did not exist, because IIJA was not enacted when the Round 3 FOA was published.

Objectives, Scope and Methodology

This informational report provides information on the ReConnect Program, funded by IIJA's and RUS' consideration and balance of broadband needs within statutory and ReConnect program requirements as of September 30, 2023. We prepared this report using information obtained from RUS officials and from public sources. This informational report does not contain any findings or recommendations.

We conducted our inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. We believe that the evidence obtained is sufficient and appropriate to support the information in this report. We provided a draft of this report to RUS' management for their review and technical comments. We incorporated their comments into the report, as appropriate.

A new cell tower in Medicine Park, Oklahoma helps local communities in Commanche county connect to the internet (banner photo). USDA photo by Alice Welch. The photograph is from USDA's Flickr Site and is in the public domain. It does not depict any particular audit or investigation.

Abbreviations

CFR.....	Code of Federal Regulations
CRS.....	Congressional Research Service
ER.....	Environmental Report
FCC.....	Federal Communications Commission
FOA.....	Funding Opportunity Announcement
Gov.....	Government
IIJA.....	Infrastructure Investment and Jobs Act
Mbps.....	Megabits per second
NTIA.....	National Telecommunications and Information Administration
PFSA.....	Proposed Funding Service Area
RUS.....	Rural Utilities Service
SVC.....	Socially Vulnerable Communities
USDA.....	United State Department of Agriculture